Gordon v. Impulse Marketing Group Inc Doc. 146

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

OCT 27 2005

JAMES R. LARSEN, CLERK
_______DEPUTY
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT RICHLAND

James S. Gordon, Jr., Plaintiff, vs. Impulse Marketing Group, Inc., Defendant Impulse Marketing Group, Inc., Third-Party Plaintiff, v. James S. Gordon III, Third-Party Defendant	Case No.: CV-04-5125-FVS JOINT STATUS CERTIFICATE AND RULE 26(f) DISCOVERY PLAN

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

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Pursuant to the request of the court, the parties to this action have prepared unilateral status certifications. Mr. Ivey has already prepared his version of a joint status certificate without consulting me. Therefore, the undersigned's input to this process is as follows:

(a) Service of process on parties:

To the best of my knowledge all third-party defendants have been served. Additionally, each third-party defendant has made her or his own written request of Mr. Ivey to postpone the submission of an answer to the complaint of third-party plaintiff until 20 days after the Court has ruled on the motion of plaintiff to dismiss third party defendants from this lawsuit. Mr. Ivey has not responded to any of the third party defendant's request to stipulate to postponing her or his answer. In fact, Mr. Ivey has advised Mr. McKinley that Impulse will be filing motions for default judgment against third party defendants without extending the courtesy of responding to each third party defendant's good faith effort to provide third party plaintiff with an answer. However, with the possibility of a dismissal of third party defendants from the lawsuit, it is prudent to await the Court's decision as it may preclude the need for an answer.

(b) Jurisdiction and Venue:

The parties to this action acknowledge that personal jurisdiction is proper in this district, and that venue is not contested.

(c) Anticipated motions:

Each of the parties anticipates motions for summary judgment motions on various issues in this case and Plaintiff's Motion to Dismiss and in the Alternative for Summary Judgment is pending for hearing November 2, 2005. Third-party defendant may file a motion to dismiss.

(d) Rule 26(f) Conference:

Third party defendant will research the FRCP to determine his obligations under this and other relevant rules. Parties have not met nor teleconferenced regarding the specifics of this status certificate.

1. Third party defendant is not certain if changes should be made in the timing, form, or requirement for disclosures under subdivision (a) or local rule.
2. Discovery may be needed on all subjects contemplated under the claims and defenses pled in this action. Discovery may be needed on all of third party defendant's claims and defenses as well. Discovery should not be conducted in phases. However, it should be limited to or focused on specific issues.
3. The undersigned is unaware of changes which may be needed to limitations on discovery imposed under the Federal Rules of Civil Procedure or by local rules.
4. No other orders should be entered by the court under FRCP 16(c) or under Rule 16(b) at this time. Parties may seek orders in the future based upon future discovery requests.
5. Third party defendant will not stipulate to Impulse's request for a protective order.

(e) Recommended Dates:

1. **Discovery Cutoff:** The third party defendant request a discovery cutoff date of February 28, 2006.

2. **Pretrial Conference:** The date of pretrial conference should be set as the Court determines based upon the trial date.

3. **Length of Trial:** The trial could take 15-20 days or more as third party defendant reserves rights to affirmative defenses and counterclaims of his own.

4. **Trial Date:** The parties request a trial date of approximately 12 weeks following the discovery cutoff, which would be approximately May 28, 2006.

5. **Other deadlines:** Third party defendant is not aware of any other deadlines besides the ones in this document.

(f) Appropriateness of special proceedings:

Third party defendant is not aware of special procedures, which would be appropriate for this action.

(g) Modification of standard pretrial procedure:

All pleadings and motions must be served upon third party defendant via U.S. mail.

(h) Feasibility of Bifurcation/Structure of Sequence of Trial:

Third party defendant prefers to (may move to) bifurcate these third party proceedings from the plaintiff's cause of action.

(i) Magistrate Judge:

The parties to this case do not consent to trial of this action by a full-time United States Magistrate Judge.

(j) Prospects for Settlement:

The parties have not engaged in any settlement negotiations.

(k) Other Matters Conducive to the Efficient Adjudication of the Action:

Other than the issues stated above, the parties do not at this time suggest any other matters conducive to the just, efficient, or economical adjudication of the action or proceeding.

James S. Gordon III
200 Waldron, #4
Richland, WA 99354
509-943-8858

Dated this 27th day of October, 2005

[signature]